LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

NOTIFICATION.

Bangalore dated the 22nd November 1973.

G. S. R. 13 .—In supersession of the Mysore LAW Officers (conditions of services) Rules 1973, Government of Karnataka hereby frame the following Rules governing the conditions of service of Law Officers in the State of Karnataka.

RULES

1. Title and Commencement.—(1) These rules may be called "Karnataka Law Officers" (Conditions of Service) Rules, 1973.

(2) These rules shall be deemed to have come into force with effect from first day of November, 1973.

2. Definitions.—In these rules unless the context otherwise requires:—

(a) "District Magistrate" means the Deputy Commissioner of a District :

(a a) "Director of prosecution" means the Director of Prosecution appointed by the Government.

(b) "Government Pleader" includes a District Government Pleader an Assistant Government Pleader and an Honorary Assistant Government Pleader but does not include a Government Pleader in the High Court ;

(b) (i) "Government Servant" means a person who is a member of Civil Service of the State of Karnataka or holds a Civil post under the State of Karnataka.

(c) "Public Prosecutor" means any person appointed under section 492 of the Code of Criminal Procedure 1898 to be a Public Prosecutor or an Additional Public Prosecutor for any local area or for any specific case or class of cases in such area.

(c) "Special Counsel" means any Advocate or Pleader specially appointed for any Civil or Criminal case and includes a Law Officer when so appointed;

(e) "Law Officer" means a Government Pleader, a Public Prosecutor or any other counsel appointed by Government or by competent authority for the purpose of conducting any Civil or Criminal case for or on behalf of the State or any subordinate officer of the State in the discharge of his official duties.

3. Appointment of Public Prosecutor, Government Pleader etc.

Government may appoint as Public Prosecutor or Government Pleader any person who has been practising as an Advocate or Pleader.

4. Appointment, Term of Office etc.,

4. (1) The Deputy Commissioner shall, whenever required by Government, invite applications for the post of Public Prosecutor or Government Pleader specifying the date before which such applications should be made and forward the applications so received to the District and Sessions Judge along with his remarks about each of the applicants indicating also which of the applicants belong to the Scheduled Castes and Scheduled Tribes. On receipt of the same the District Judge shall forward them to the Government appending his own remarks. The Government shall thereafter make the appointments in the case of Government Pleader and after consultation with the Director of Prosecution concerned, in the case of Public Prosecutor.

(2) A person appointed as a Government Pleader or a Public Prosecutor for any District or Local area shall hold office for such term as may be determined by Government not exceeding three years but shall be eligible for reappointment after the expiry of such term.

(3) A Law Officer shall be liable to be removed from his office at any time, if in the opinion of the Government he has contravened any provision of these rules or if the

is guilty of any act or conduct which, in the opinion of the Government, is incompatible with his duties as such Law Officer. The decision of the Government in such cases shall be final.

(4) A Government pleader or public prosecutor whose term is fixed under sub-rule (2) may resign his office by giving three months notice in writing to the Government, and the Government may, save in the case of removal under sub-rule (3), terminate the services of a Government pleader or public prosecutor by giving him similar notice.

4. Appointment of special public prosecutors:—(1) Every appointment of a Special Public Prosecuor for any particular criminal case shall be made only on the recommendation of the Director of prosecution concerned.

(2) Before appointments of public prosecutors are made by the District magistrate under sub-section (2) of section 492 of the Code of Criminal Procedure, 1898, the Director of Prosecution concerned shall be addressed in the matter and the appointment made on the recommendation of the Director".

5 Prohibition from appearing, acting or advising against Government.—(1) Except with the special sanction of Government or except as hereinafter provided in this rule, no Government pleader or public prosecutor or his partner if any, shall hold any brief against Government, advice appear or act in any case against Government or give advice to private parties in cases in which he is likely to be called upon to advice Government or any Government Officer. If a partner of a Government pleader or public prosecutor has advised, appeared or acted in any case against Government it shall be the duty of such Government pleader or public prosecutor to bring the fact to the notice of Government and await instructions from the Government as to whether he shall appear or continue his appearance for the State.

(2) A Government pleader or public prosecutor shall not act or appear on behalf of an applicant for permission

to sue *informa pauperis* until his application for such permission has been decided by the Court.

(3) A public Prosecutor shall not act or appear on behalf any accused person, either within or without his district, without the previous permission of the Director of Prosecution concerned.

Provided that an Additional Public Prosecutor may act or appear on behalf an accused person, if he is permitted in writing by the Director of prosecution.

6. Taking part in Politics and Elections:—(1) No Government Pleader or Public Prosecutor shall be a member of, or be otherwise associated with, any political party or organisations which takes part in politics nor shall be taken part in, subscribe in aid of, or assist in any other manner, any political movement or activity.

(2) If any question arises whether any movement or activity falls within the scope of this rule, the decision of Government shall be final.

(3) If a person appointed as Government Pleader or Public Prosecutor is a member of any political organisation before his appointment, he shall resign his membership immediately after his appointment as Government Pleader or Public Prosecutor.

7. Not to be Member of Local Authorities without permission:—(1) No Government Pleader or Public Prosecutor shall stand for election to any Local Authority without the previous permission of Government.

(2) If a person appointed as Government Pleader or Public Prosecutor is a member of any Local authority at the time of his appointment, he shall resign his membership immediately after his appointment, unless he obtains the permission of Government for continuing such membership.

8. Not to accept Directorship of any Company:—No Government Pleader or Public Prosecutor shall accept any

appointment or continue as a Director in any Company without the sanction of Government.

9 Not to disclose information:—No Law Officer appearing on behalf of Government shall, without the permission of Government communicate directly or indirectly to any person any document or information which has come into his possession in the course of his duties, save in so far as is necessary for the conduct of the case and to safeguard the interest of Government.

10. Transfer of Records:—(1) On the expiry of the term of office, whether by efflux of time or otherwise, of a Government Pleader or Public Prosecutor, he shall prepare a list of cases, references and official correspondence pending with him and hand over all the records concerned to the Law Officer succeeding him, obtain a receipt for the same and report the fact to the Advocate General, the Director of Prosecutions concerned in the case of Public Prosecutors and the State Government.

(2) Until and unless the provisions of sub-rule (1) are complied with, any amount due to the Government Pleader or Public Prosecutor concerned shall not paid to him and if any loss is caused to Government due to the default of the Government Pleader or Public Prosecutor, such Government Pleader or Public Prosecutor shall be personally responsible for such loss.

11. Leave—(1) Save as otherwise provided in this rule no Government Pleader or Public Prosecutor shall be entitled to any kind of leave

(2) The Deputy Commissioner in the case of Government Pleaders and the Director of Prosecutions concerned in the case of Public Prosecutors may grant casual leave not exceeding fifteen days in a calendar year to a Government Pleader or Public Prosecutor as the case may be on account of private affairs, illness or such other sufficient cause, when proper arrangements necessary for the conduct of pending cases and discharge of his duties have been made.

(5) The Government may grant to a Government Pleader or Public Prosecutor earned leave without allowances, and appoint a temporary Government Pleader or Public Prosecutor during the period of leave.

12. Ordinary duties of a Government Pleader.:—It shall be the duty of a Government Pleader to appear—

(a) on behalf of Government or any Government Officer, in any suit or other Civil Proceedings to which Government or a Government Officer is a party or the institution or defence of which is undertaken by Government;

(b) when so directed by a District Judge, in support of an order imposing a fine on, or directing the arrest of a witness under the provisions of the Code of Civil Procedure, 1908, and appealed against to the District Court;

(c) when so directed by a District or Sessions Judge in any proceeding in the District or Sessions Court regarding alleged improper conduct of a Pleader;

(d) when so directed by the Deputy Commissioner, in applications made by the Deputy Commissioner under Section 10 of the Guardians and Wards Act, 1890.

13. Assistance by a Junior:—In exceptional cases, the Government Pleader, may, on the recommendation of the Deputy Commissioner, be permitted by Government to have the assistance of the Assistant Government Pleader as a Junior.

14. Duties of a Public Prosecutor:—It shall be the duty of a Public Prosecutor—

(a) to conduct the prosecution in every trial before the Court of Sessions and for that purpose, he shall at the earliest opportunity examine the records of the proceedings before the Committing Magistrate, consult the Director of Prosecution, concerned and see that any defect such as the

omission to summon a necessary witness is, if possible, remedied before the date fixed for hearing in the Court of Sessions;

(b) to appear before the Court of Sessions for the State at the hearing of any appeal against a conviction or an application for the revision of sentence, or order of discharge or any other order against which no appeal lies, when notice of such appeal or application is given to the officer appointed by the State Government under Section 422 of the Code of Criminal Procedure, 1898 or when he is directed by the Sessions Judge or the Director of Prosecutions concerned so to appear. In doubtful cases, the Public Prosecutor shall consult the Director of Prosecutions whether or not he should appear in any such case;

(c) to assist the Advocate-General or the State Public Prosecutor in the High Court whenever required by either of them in respect of any case which he has conducted in the Court of Sessions, if so directed by the Director of Prosecutions concerned;

(d) when specially required in writing by the Director of Prosecutions concerned to conduct the prosecution in any case before a Magistrate,

(e) in Criminal Cases where the accused person is a Government Servant, to intimate the Head of the Department to whom the said Government Servant is subordinate about the final order passed by the Court, immediately after the said order is passed;

(f) in every case in a sessions Court ending in an acquittal or where there is conviction only for minor offences the accused having been acquitted more serious offence to obtain within 15 days from the date of the judgment a certified copy of the judgment and forward the same to the Director of Prosecutions concerned *with his remarks indicating* reasons for filing or not filing an appeal.

15. **Government pleader and public prosecutors to appear when instructed by District and Sessions Judge or District Magistrate.**—It shall be the duty of a Government

Pleader or Public Prosecutor to appear, when instructed so to do, either by a District and Sessions Judge or by a Deputy Commissioner or by the District Magistrate concerned, in any proceedings before a Civil, Criminal or Revenue Court under Section 476 or Section 478 of the Code of Criminal Procedure, 1898.

16. **Public Prosecutor not to accept engagement or fees from any person.**—No Public Prosecutor shall accept any engagement or fee from any person in any case in which he appears on behalf of Government.

17. **Duties of Government Pleader or Public Prosecutor as Adviser to Government Officers:**—It shall be the duty of a Government Pleader or Public Prosecutor to advise all Divisional Commissioners, Heads of Departments, Superintending Engineers of the Public Works Department and District Officers of all Departments, not only in respect of any proceedings, whether Civil or Criminal, which they have to conduct on behalf of Government or on behalf of any Officer, but also on all legal matters concerning Government business of any kind which any such officer having jurisdiction in the area may refer to them.

18. **Government Pleaders and Public Prosecutors may be required to appear in Courts other than those at the Headquarters:**—The duties of a Government Pleader are ordinarily restricted to the Civil Court at the Headquarters of the District for which he is appointed, and the duties of a Public Prosecutor are ordinarily restricted to the District and Sessions Court of the District for which he is appointed. But when so required by the District and Sessions Judge, or the Deputy Commissioner, it shall be the duty of a Government Pleader to appear in any civil case in any other court in the said District and Public Prosecutor when so required by the Director of Prosecutions shall appear in any case in any other Court in the said District in connection with any Criminal Case.

19. **Assistant Government Pleaders:**—(1) An Assistant Government Pleader may be appointed for every subordinate Civil Court and his duties shall ordinarily be restricted to the Court for which he is appointed.

(2) An Assistant Government Pleader appointed for a Court shall appear on behalf of Government, in the Court for which he is appointed, in all suits and other Civil Proceedings to which Government or a Government Officer is party in his official capacity;

Provided that the Deputy Commissioner, concerned or the Government may direct the Government Pleader to appear in any case in which his appearance is considered essential, and in such case, the Assistant Government Pleader shall appear along with the Government Pleader to assist him and act under his directions in all matters connected with the case.

20. **Assistant Government Pleaders and additional Public Prosecutors:** (1) As many Assistant Government Pleaders or Additional Public Prosecutors as are considered necessary may be appointed in any place. The Assistant Government Pleaders and Additional Public Prosecutors shall work under the Control and supervision of the Government Pleader or the Public Prosecutor to whom they are Assistant Government Pleader or Additional Public Prosecutors.

(1)(a) The distribution of work among the Government Pleader and the Assistant Government Pleader shall be as made by the Government Pleader. The distribution of work among the Public Prosecutor and the Additional Public Prosecutor shall be as made in accordance with the instructions issued by the Director of Prosecutions"

(2) An Honorary Assistant Government Pleader may also be appointed to assist a Government Pleader and he shall be subordinate to, and conduct such cases only as are entrusted to him by the Government Pleader He shall not be entitled to any fee or remuneration except in cases exclusively conducted by him.

21. Retainer Fees :—(1) Every Government Pleader and every Public Prosecutor will be entitled to receive such retainer fee as may be prescribed by Government either by a general or special order under these rules from time to time. No Assistant Government Pleader or Additional public Prosecutor or Honorary Assistant Government Pleader shall be entitled to receive any retainer fee The Government reserves the right to reduce the retainer fee if and when considered necessary in public interes.

(2) Every Law Officer will be entitled to receivet such schedule fee as may be prescribed by Government from time to time either in addition to or in lieu of the retainer fee.

(3) Travelling and dairy allowance payable to Law Officers in respect of journeys undertaken on duty shall be regulated by the Mysore Civil Service Rules 1957, for the time being in force.

22. Repeal and Savings :—The Bombay Law Officers (Conditions of Service) Rules, 1939 and all other rules applicable to Law Officers in so far as they relate to appointment and conditions of service of Law Officers are hereby repealed —

Provided that all appointments made or anything done or any action under the repealed rules shall be deemed to have been made, done or taken under these rules;

Provided further that notwithstanding any thing contained in the repealed rules, all Law Officers shall after the commencement of these rules, be governed by these rules and their rights and liabilities shall be determined accordingly.

No. LAW 25 LAG 73.]

By Order and in the name of the Governor of Karnataka,

N. D. VENKATESH
Secretary to Government,
Department of Law and
Parliamentary Affairs.

Printed by the Director of Printing, Stg. & Publications at the Govt. Press, Bhdr.